

1 Martin E. Rosen (SBN CA 108998)  
2 mrosen@hinshawlaw.com  
3 Larry M. Golub (SBN CA 110545)  
4 lgolub@hinshawlaw.com  
5 Jenny H. Wang (SBN CA 191643)  
6 jwang@hinshawlaw.com  
HINSHAW & CULBERTSON LLP  
633 West 5th Street, 47th Floor  
Los Angeles, CA 90071-2043  
Telephone: 213-680-2800  
Facsimile: 213-614-7399

7 Attorneys for Defendant  
8 UNITED OF OMAHA LIFE INSURANCE COMPANY

9  
10 **UNITED STATES DISTRICT COURT**  
11  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 JENNIFER BENTLEY, as Trustee of  
14 the 2001 Bentley Family Trust,

15 Plaintiff,

16 vs.

17 UNITED OF OMAHA LIFE  
18 INSURANCE COMPANY,

19 Defendant.

20 Case No. 15-cv-07870-DMG (AJWx)  
(Honorable Dolly M. Gee)

21 **DECLARATION OF VERONICA  
22 DOUGHERTY IN SUPPORT OF  
23 OPPOSITION TO PLAINTIFF'S  
24 MOTION FOR CLASS  
25 CERTIFICATION**

26 Hearing Date: March 30, 2018  
Hearing Time: 10:00 a.m.  
Courtroom: 8C

27 [Filed Concurrently With: (1) Opposition  
28 to Motion; (2) Declaration of Nancy  
Irvine; (3) Declaration of Larry M.  
Golub; (4) Index of Evidence; and (5)  
Proposed Order]

29 **EXHIBITS TO THIS  
30 DECLARATION ARE ATTACHED  
31 TO THE ACCOMPANYING INDEX  
32 OF EVIDENCE**

33 Discovery Cut-Off: May 22, 2018  
34 Pre-Trial Conf. Date: August 28, 2018  
35 Trial Date: September 25, 2018

36 Complaint Filed: August 27, 2015

## DECLARATION OF VERONICA DOUGHERTY

I, Veronica Dougherty, hereby declare as follows:

1. I am employed as a Business Systems Analyst in the Policyowner Services division of Mutual of Omaha Insurance Company (“Mutual of Omaha”). In that role, I perform services on behalf of Defendant United of Omaha Life Insurance Company (“United”), a wholly owned subsidiary of Mutual of Omaha. I have been employed by Mutual of Omaha for 38 years, all working in various positions within the Life Operations department of the Policyowner Services division. I have personal knowledge of the facts declared herein and if called upon to testify can and will testify competently thereto.

2. In my years working in Policyowner Services, I have been involved in all aspects of servicing life insurance and annuity policies from the point at which a policy has been issued until a policy is terminated by the payment of a claim or otherwise. This includes handling matters related to all forms of life insurance, including term, whole life, universal life, and other permanent life policies administered on multiple administrative computer systems. Throughout my career, I have handled elevated questions/concerns, explanation of benefits, payment histories, rate calculations, payment mode changes, policy terminations, loans, partial withdrawals, cash and loan surrenders, rider removals, ownership changes, beneficiary changes, agent changes, policy status inquiries, premium & interest payments, loan repayments, running illustrations, tax questions regarding life insurance policy gains, collateral assignments, external replacements, billing questions and refunds, process reviews and improvements, and compliance related matters

3. In preparing this declaration, I have reviewed the following materials: the two updated lists of policies produced by United (bates numbers United 1252-

1 1254) in response to Plaintiff's discovery requests, the two lists identifying the  
2 beneficiaries on the updated policy lists (bates numbers United 1255-1257), the  
3 correspondence between United and the 46 policyholders for the policies identified  
4 on the two updated policy lists (bates numbers United 627-649, United 673-826, and  
5 United 914-983), and the Business Events notes for the policies identified on the  
6 two updated policy lists (bates numbers United 984-1175). Business Events notes  
7 are maintained by United in a computerized database that record certain events that  
8 occur in connection with a life insurance policy, such as communications with  
9 policyholders (including documenting telephone calls), policy status or beneficiary  
10 inquiries, premium frequency inquiries or changes, stopped payments from bank  
11 accounts, cancellations, and other items. I was also the person who reviewed the  
12 files for the 46 policies contained on the two policy lists to determine the number  
13 (and identifying information) of beneficiaries that existed on each of those policies  
14 at the time they lapsed so that this information could be supplied to Plaintiff in this  
15 case. So that the analysis presented below can be easily seen, attached hereto as  
16 **Exhibit 1** is a true and correct copy of the two updated lists of policies produced by  
17 United (bates numbers United 1252-1254) in response to Plaintiff's discovery  
18 requests, which lists are identical to those attached as Exhibit F to Plaintiff's motion.  
19 For purposes of my review of the policies, I am aggregating the 45 policies issued in  
20 California with the one policy issued outside California contained on the updated  
21 lists and will refer to the total number of policies as 46.

22 4. In examining the lists of 46 policies, the policy files for those policies  
23 and the Business Event notes for those policies, I have been able to determine the  
24 following facts.

25 a. **Policies that Lapsed Prior to December 31, 2013.** Twenty (20)  
26 policies lapsed prior to the end of 2013. These 20 policies are taken  
27 directly from the policy lists provided to Plaintiff in response to  
28 discovery requests and are the following:

	<u>Policy No.</u>	<u>Lapse Date</u>
1	1) 8448979	07/28/2013
2	2) 5264660	12/20/2013
3	3) BU1105227	06/17/2013
4	4) BU1101313	04/28/2013
5	5) UA9179666	10/01/2013
6	6) UA7820542	12/01/2013
7	7) UR2663468	01/06/2013
8	8) UR2648669	02/07/2013
9	9) UR2627721	02/07/2013
10	10) UR2648784	01/08/2013
11	11) UR2674494	03/27/2013
12	12) UR2629776	04/02/2013
13	13) UR2671752	02/21/2013
14	14) UR2493480	12/07/2013
15	15) UR2583844	04/02/2013
16	16) UR2584816	04/06/2013
17	17) UR2681720	08/07/2013
18	18) UR2447251	02/09/2013
19	19) UR2654966	07/13/2013
20	20) UA7475318	11/01/2013

22 b. **Policies Failed to Reached Their Renewal Date in 2013.** Of the 19  
23 policies listed above in subparagraph (a), eleven (11) of those policies  
24 terminated before and did not continue in force beyond the anniversary  
25 date that first occurred after January 1, 2013. These are the 11 policies,  
26 and I have listed in the last column what would have been the renewal  
27 date for each of these policies in 2013 had they not lapsed prior to that  
28 time:

1	<u>Policy No.</u>	<u>Issue Date</u>	<u>Lapse Date</u>	<u>Anticipated 2013</u>
2				<u>Renewal Date</u>
3	1) UR2663468	12/06/2012	01/06/2013	12/06/2013
4	2) UR2648669	10/08/2012	02/07/2013	10/08/2013
5	3) UR2627721	09/07/2012	02/07/2013	09/07/2013
6	4) UR2648784	10/08/2012	01/08/2013	10/08/2013
7	5) UR2674494	11/27/2012	03/27/2013	11/27/2013
8	6) UR2629776	10/02/2012	04/02/2013	10/02/2013
9	7) UR2671752	11/21/2012	02/21/2013	11/21/2013
10	8) UR2583844	07/02/2012	04/02/2013	07/02/2013
11	9) UR2584816	07/06/2012	04/06/2013	07/06/2013
12	10) UR2681720	12/07/2012	08/07/2013	12/07/2013
13	11) UR2654966	11/02/2012	07/13/2013	11/02/2013

14 c. **Policy Not Issued or Delivered in California.** Of the 46 policies, one  
15 of the policies was not issued or delivered in California:

16 1) UA7475318

17 d. **Policies Where the Policyholder Asked United to Cancel the Policy.**

18 Of the 46 policies, there are eleven (11) policies where the policyholder  
19 specifically informed United that he or she wished to cancel the policy.

20 Collectively attached hereto as **Exhibit 2** is a true and correct copy of  
21 communications from policyholders or Business Events notes that  
22 confirm these ten policyholders asked to have their policies cancelled.

23 For example, for the first policy listed below (No. 5264660), the  
24 policyholder faxed United and stated: "This is to inform you that as of  
25 the date above, I am cancelling my Life Insurance Policy #5264660.  
26 Please do not deduct any more funds from my bank account (Bank of  
27 the West)." (United 715-716). The same thing happened with Policy  
28 No. BU7427273 (United 982, 1164), where the letter stated, "I would

1 like to cancel my insurance policy (life) # BU7427273 as of Aug. 10,  
2 2016. Thank you for your service.” Another policyholder called United  
3 to cancel since the policyholder “has other insurance,” and United was  
4 not able to conserve (*i.e.*, retain) this policy. (No. UR2629776 (United  
5 1081).) Yet another policyholder called United to cancel since the  
6 policy was “too expensive/can’t afford,” and United here, too, was not  
7 able to conserve this policy. (No. UR25838446 (United 1089).) Other  
8 policyholders called United to cancel the policy “due to premium  
9 increase” where the term policies had reached the end of their level  
10 guaranteed premium and the monthly premium would be increasing by  
11 seven or eight times. (No. BU1024242, increasing from \$58.74 to  
12 \$421.86 (United 1114); No. UA9227516, increasing from \$150.41 to  
13 \$1025.46 (United 1117); No. UA6883593, increasing from \$97.23 to  
14 \$789.88 (United 1126).) When a policyholder contacts United to cancel  
15 a policy, United does not refund premium, and the policy continues in  
16 force to the paid-to date, and when the policy terminates at the end of  
17 that period, United’s system codes that event as a Lapse – Non Payment  
18 of Premium, not a cancellation (again, since United does not refund any  
19 premium). Additionally, when a policyholder requests a stop of  
20 automatic premium withdrawals from his or her bank account, United  
21 cancels that payment, but the policy stays in force until the paid-to date,  
22 and United’s system codes that event as a Lapse – Non Payment of  
23 Premium at the end of that period. The 11 policies, with the specific  
24 bates number confirming the communication requesting cancellation by  
25 the policyholder, are the following, with those six (6) policies not listed  
26 in the subparagraphs above displayed in bold- faced text:

<u>Policy No.</u>	<u>Documents Requesting Cancellation</u>
1) 5264660	United 715-716

1	2) 9029321	<b>United 930, 932, 1025, 1028</b>
2	3) BU1127633	<b>United 1044</b>
3	4) UA9179666	United 1055-1056
4	5) UR2629776	United 1081
5	6) UR2583844	United 1088
6	7) BU1024242	<b>United 1114</b>
7	8) UA9227516	<b>United 1117</b>
8	9) UA6883593	<b>United 1126</b>
9	10) BU7427273	<b>United 982, 1164</b>
10	11) UA7475318	United 983, 1168

11 e. **Policy Lapsed Due to Inadequate Cash Value.** Of the 46 policies,  
12 there are six (6) non-term policies where the policy lapsed because the  
13 policyholder failed to make his or her interest payment on a loan  
14 obtained against the policy's cash value and there was insufficient value  
15 in the policy to cover the monthly charges under the policy as well as  
16 the loan interest charge. Collectively attached hereto as **Exhibit 3** is a  
17 true and correct copy of communications with policyholders or Business  
18 Events notes that confirm these policyholders had a loan in place and  
19 failed to pay the interest on their loan, which caused their policies to  
20 terminate due to inadequate cash value. When such an event occurs,  
21 United's computer system categorizes this as a Lapse – Non Payment of  
22 Premium. These six policies are the following and four (4) of them (in  
23 bold-faced text) are not listed in the subparagraphs above:

	<b>Policy No.</b>	<b>Documentation re Inadequate Cash Value</b>
24	1) 8448979	United 673, 676, 679, 985
25	2) <b>7864066</b>	<b>United 680, 683, 686, 989-990</b>
26	3) <b>7997098</b>	<b>United 689, 693, 998-1000</b>
27	4) <b>5554559</b>	<b>United 914, 916, 919, 1016</b>
28		

5) 7759088      United 920, 923, 929, 1021-1022

6) UA7820542 United 730, 1060

**f. Policies That Reached the End of their Guaranteed Level Premium**

**Period.** When a term policy reaches the end of its guaranteed level premium period (which could be five, ten, fifteen or twenty years, depending on the term policy purchased), the policy's premium substantially increases (perhaps by 7 or 8 times), and it will continue to increase year after year. When the point of level guaranteed premiums ends, policyholders may decide to not continue the insurance coverage rather than pay the increased premium. In listed those policies where the insured specifically advised United that he or she wished to cancel their policy. However, some policyholders may simply stop paying the premiums and/or instruct their bank to stop allowing automatic withdrawals from their bank account rather than paying the higher premium to continue the coverage. United's computer system then categorizes this as a Lapse – Non Payment of Premium. Of the 46 policies on the policy lists, there are eight (8) term policies that lapsed at the end of their level premium term where United has not been able to document a specific request to cancel, and two (2) of these policies (in bold face text) are not contained in one or more of the prior subparagraphs. These policies are taken directly from the policy lists and are the following:

<u>Policy No.</u>	<u>Issue Date</u>	<u>Lapse Date</u>
1) BU1105227	06/17/2003	06/17/2013
2) BU1127633	01/07/2005	01/07/2015
<b>3) BU1133356</b>	<b>04/14/2005</b>	<b>04/14/2015</b>
4) BU1101313	04/28/2003	04/28/2013
5) BU1024242	08/12/1996	08/12/2016

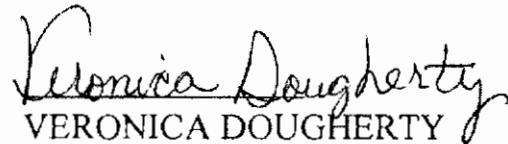
1                   6) UA9227516 06/01/2006 05/01/2016  
2                   7) **BU1152776** **07/14/2006** **07/14/2016**  
3                   8) UA6883593 11/01/1996 10/15/2016

4               5. In reviewing the Face Amount Column of the policy lists, 21 of the 46  
5 policies have face amounts of \$50,000 (or actually, \$49,725.11) or more, another 3  
6 policies have face amounts at or above \$20,000, and another 12 have face amounts  
7 of \$10,000 or more. Only ten of the 46 policies have a face amount less than  
8 \$10,000.

9  
10               I declare under penalty of perjury under the laws of the United States that the  
11 foregoing statements are true and correct.

12

13               Executed on February 22 2018, at Omaha, Nebraska.

14  
15                 
16               VERONICA DOUGHERTY

17

18

19

20

21

22

23

24

25

26

27

28